

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

AMAZON.COM, INC. and AMAZON
LOGISTICS, INC.,

Petitioners,

v.

CHRISTIANO FREITAS,

Respondent.

Civil Action No. 1:24-cv-00496

BRIEF IN SUPPORT OF PETITION TO COMPEL ARBITRATION

DECLARATION OF JOHN RODGERS

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Pursuant to 28 U.S.C. § 1746, I, John Rodgers, declare as follows:

1. I am a Director, Last Mile Tech, Amazon Flex, employed by Amazon.com Services LLC, and have responsibility for certain functions related to the Amazon Flex Program.
2. I make this declaration based on my personal knowledge and my review of Amazon's business records. If called to testify to these facts, I would be competent to do so.
3. In my role as a Director, Last Mile Tech, Amazon Flex, I am familiar with the operation of the Amazon Flex program, the onboarding process through the Amazon Flex app, and the terms of service that prospective Amazon Flex Delivery Partners ("Delivery Partners") must review and accept before they can begin making local deliveries through the Amazon Flex smartphone application.
4. Affiliates of Amazon.com, Inc. offer various products that customers around the world can purchase, including through Amazon's website Amazon.com and smartphone applications.
5. When a customer places an order, the customer designates the location at which to receive the product(s) ordered. Although customers often designate their home or business, customers can often pick up an order from a different local destination, such as Whole Foods Market and Amazon Fresh storefronts (for products ordered from those stores), Amazon Go convenience stores, or third-party owned storefronts with an Amazon

Hub Locker (self-service pickup) and/or an Amazon Hub Counter (over-the-counter pickup).

6. For orders not picked up locally by customers, Amazon contracts with certain third parties to make local customer deliveries, including UPS, the U.S. Postal Service and, in some instances, sole proprietor delivery service providers who enroll in the Amazon Flex program, referred to as Delivery Partners.

7. Amazon's "logistics" operations refer generally to the processes of coordinating and managing the movement and warehousing of products, equipment, and supplies within Amazon's facilities—in which Delivery Partners are not involved—as well as coordinating Amazon's external relationships with the third parties that make local customer deliveries.

8. For instance, third-party wholesalers, manufacturers, and sellers ship their products to Amazon fulfillment centers, where Amazon warehouses many products.

9. Once Amazon's customers place orders and designate the location at which they will receive those orders, Amazon ships the ordered items to a series of different facilities (such as sort centers, postal and other third-party distribution centers, and delivery stations).

10. Amazon uses long-haul tractor-trailers and aircraft to move some goods from third-party wholesalers, manufacturers, and sellers to Amazon fulfillment centers and also to move some goods between Amazon's fulfillment centers, sort centers, and delivery stations.

11. Through the Amazon Flex app, Delivery Partners can sign up for offered “delivery blocks,” the details of which (including their location, date, and anticipated duration) are posted on the app. An offer for a delivery block shows the amount (or in some cases a range) of the Service Fees payable for the block, the type of deliveries involved, and whether customer tips are available. Delivery Partners are not required to accept any offer posted to the Amazon Flex app, any specific Amazon Flex offer, or a minimum number of offers. The anticipated durations of posted delivery blocks vary but commonly range between 2 to 6 hours.

12. Among other opportunities, Delivery Partners can accept delivery blocks through Amazon’s “Global Specialty Fulfillment” or “GSF” umbrella of programs to deliver food, groceries, and other items stocked and/or prepared locally. Historically, GSF programs have included:

- Amazon Fresh (groceries sold by Amazon).
- Store orders (e.g., groceries picked up at Whole Foods Markets).
- Prime Now (locally stocked items with a 1 or 2-hour turnaround).
- Amazon Restaurants (items from restaurants, now discontinued).

13. Delivery Partners can accept delivery blocks through the “ROAR” program to pickup items at stocked at nearby retail stores, such as OfficeMax.

14. Delivery Partners can accept “Sub Same-Day” or “SSD” delivery blocks to deliver items available for fast, same-day delivery.

15. Delivery Partners can accept “Amazon Logistics” or “AMZL” delivery blocks, sometimes also called “brown box” deliveries, of items warehoused in Amazon fulfillment centers.

16. With respect to AMZL orders, the items warehoused at a fulfillment center have been unloaded, sorted, and stowed there. After customers order such items, Amazon employees typically pick the ordered items from the fulfillment center’s shelves and prepare them for shipment. At the time of order, these items are often located at a fulfillment center in the same state as the customer. After the items are prepared for shipment, other workers load the items onto vehicle(s) for transit to another location like a sort center, other workers drive those vehicles to that location, and other workers unload these vehicles there. At a sort center, after Amazon’s employees sort the items by delivery zip code, other workers load the items onto other vehicles, other workers drive those vehicles to the delivery station, and other workers unload these vehicles at the delivery station.

17. For AMZL packages that are located in a different state than the customer at the time the order is placed, the journey from sort center to delivery station usually includes a transportation segment wholly within the customer’s state and may include multiple segments of intrastate transportation within that state.

18. At a delivery station, Amazon employees retrieve AMZL packages and group them into local delivery batches, which often encompass numerous orders and numerous customers’ delivery locations. The batched packages then are transferred to Delivery Partners, who deliver the batched packages to customers.

19. Delivery Partners ordinarily do not touch packages until after they are organized (on a cart, for example, or in a sturdy canvas or nylon bag) by local delivery batches at a delivery station or other pickup location. Delivery Partners then assume responsibility for taking the cart/bag to their personal vehicles, arranging and loading the items in their vehicles, and delivering the batch of items to their local destinations.

20. As this overview indicates, Delivery Partners do not unload cargo from airplanes, trucks, rail cars, or ships or otherwise interact with such long-range forms of transportation. Delivery Partners are not responsible for transporting cargo to, or from, fulfillment centers. Nor are they engaged in packaging or shipping items to sort centers, postal and other third-party distribution centers, or delivery stations.

21. Instead, Delivery Partners characteristically pick up batches of pre-packaged items in their selected geographic areas and deliver those items to customers in the same geographic areas using ordinary vehicles like their personal automobiles. In this way, Delivery Partners can help Amazon's customers avoid having to personally pick up orders at a retail store or Amazon Hub location.

22. Individuals seeking to sign up for Amazon Flex must first download the Amazon Flex app on a smartphone, log into the app with an Amazon account (and create one if necessary), and select the local area in which they wish to make deliveries. Individuals must then complete the Amazon Flex onboarding process, which requires prospective Delivery Partners to affirmatively agree to the Amazon Flex Independent Contractor Terms of Service ("TOS") before they can start making deliveries. There have been multiple versions of the TOS.

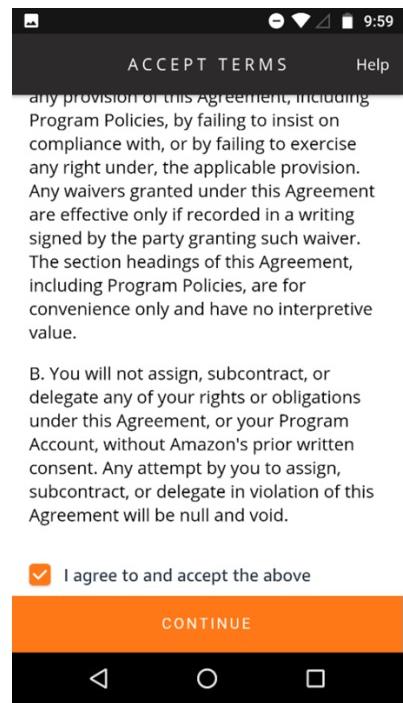
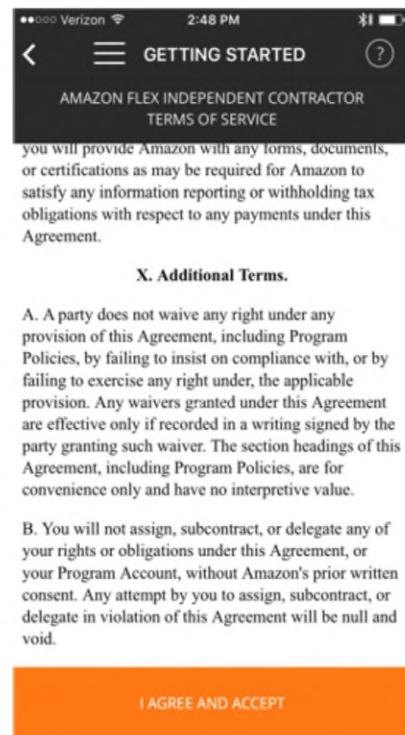
23. Amazon's records indicate that Christiano Freitas accepted Version 9 of the TOS on January 5, 2017. Amazon's records indicate that Freitas also accepted Version 10 of the TOS on February 19, 2018, February 20, 2018, November 8, 2018, and May 26, 2019. Freitas did not opt out of the arbitration provision in the TOS.

24. TOS Version 9 is attached as **Exhibit A**.

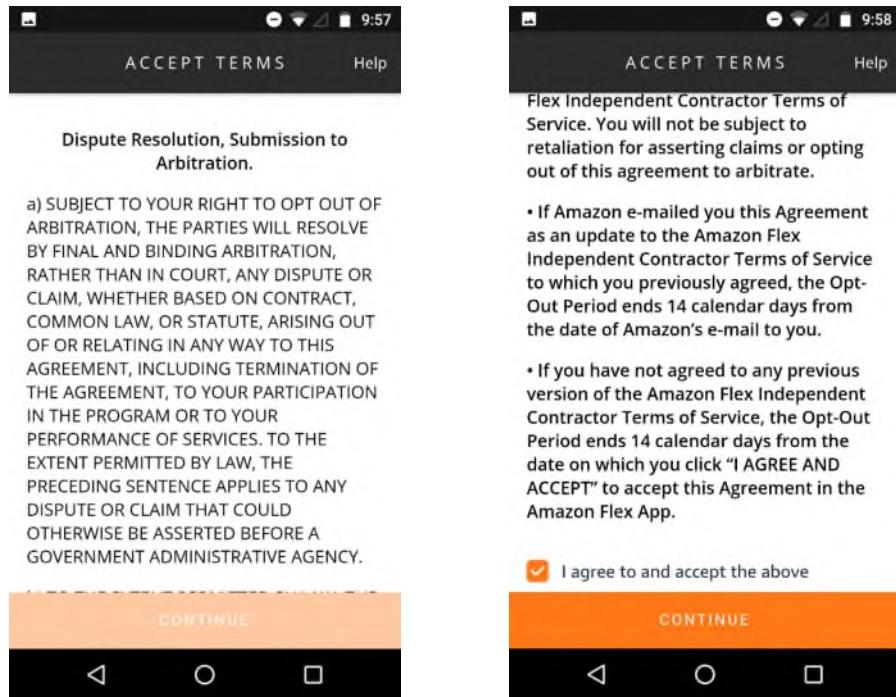
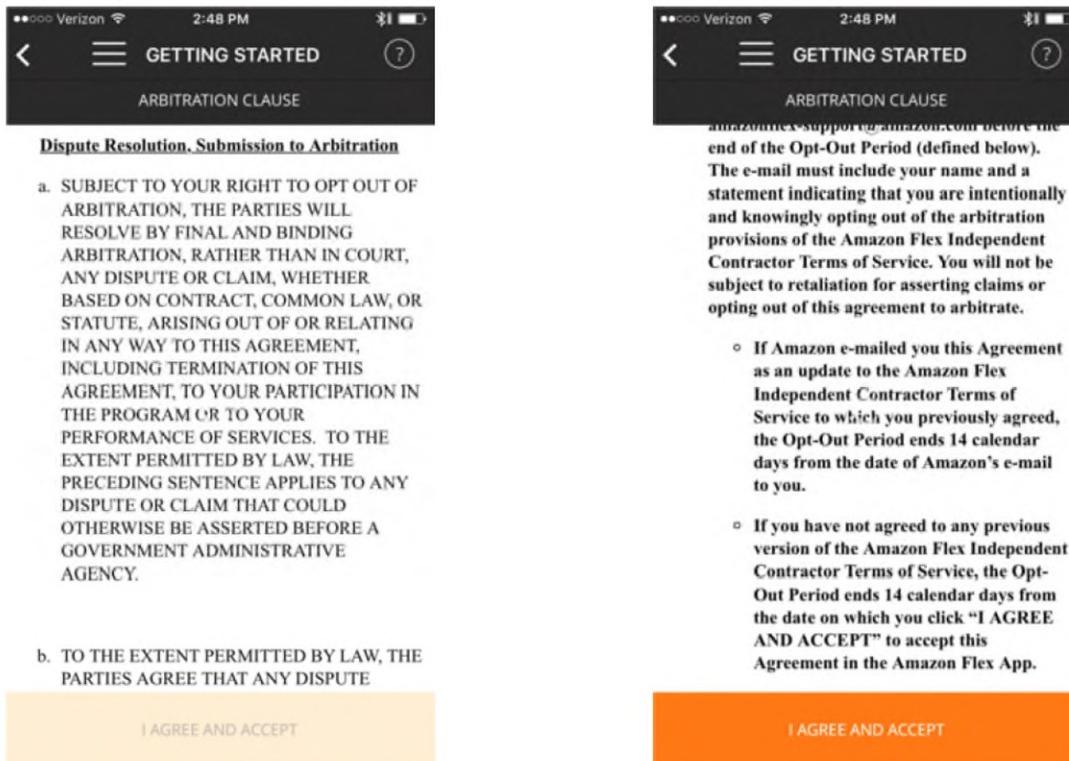
25. TOS Version 10 is attached as **Exhibit B**.

26. In signing up to participate in Amazon Flex, Freitas had to click a button indicating that he agreed to the then-applicable version of the TOS as a whole, and had to click another button specifically affirming that he agreed to arbitrate.

27. In this contract-acceptance process, the Amazon Flex app presented the TOS in its entirety (by scrolling through the app) and would have resembled the following screenshots (depending on the date of acceptance):



28. The Amazon Flex app separately presented an agreement to arbitrate and would have resembled the following screenshots (depending on the date of acceptance):



29. Freitas last made deliveries in the Durham, North Carolina area.

I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.

Executed on June 14, 2024, in Bellevue, Washington.

DocuSigned by:

John Rodgers
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John Rodgers